

ESTTA Tracking number: **ESTTA398504**

Filing date: **03/16/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Vifor SA
Granted to Date of previous extension	03/16/2011
Address	Rte De Moncor 10 Villars-Sur-Glane, 1752 SWITZERLAND
Attorney information	James A. Trigg Kilpatrick Stockton LLP 1100 Peachtree Street, Suite 2800 Atlanta, GA 30309 UNITED STATES jtrigg@ktslaw.com, nchollet@ktslaw.com, tmadmin@ktslaw.com Phone:404-815-6500

Applicant Information

Application No	85065236	Publication date	11/16/2010
Opposition Filing Date	03/16/2011	Opposition Period Ends	03/16/2011
Applicant	Adams, Jessica 219 North Keystone Street Burbank, CA 91506 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 1998/05/08 First Use In Commerce: 2010/03/20 All goods and services in the class are opposed, namely: Equine care products, namely, medicated hoof creams, muscle liniments, and insect repellents
Class 044. First Use: 1998/05/08 First Use In Commerce: 2010/03/20 All goods and services in the class are opposed, namely: Providing holistic health care services for horses

Grounds for Opposition

Other	Likelihood of confusion
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Attachments	Notice of Opposition_EQUIZEN.pdf (5 pages)(15635 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Nichole Davis Chollet/
Name	Nichole Davis Chollet
Date	03/16/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 85/065,236: EQUIZEN,
Published in the Official Gazette of November 16, 2010

VIFOR SA,)	
)	
Opposer,)	
v.)	
)	Opposition No. _____
JESSICA ADAMS,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Vifor SA (hereinafter “Opposer”) will be damaged by the registration by Jessica Adams (hereinafter “Applicant”) of the mark EQUIZEN filed under Application Serial No. 85/065,236 and published in the *Official Gazette* on November 16, 2010, and hereby opposes the same, pursuant to the provisions of § 1063 and 37 C.F.R. §§ 2.101 and 2.104.

The grounds for this Opposition are as follows:

1.

Opposer is a foreign corporation incorporated under the laws of Switzerland, located and doing business at Rte de Moncor 10, Villars-Sur-Glane, Switzerland 1752.

2.

Upon information and belief, Applicant is a an individual with a residence at 219 North Keystone Street, Burbank, CA 9150.

3.

Opposer owns a U.S. trademark registration for the mark EQUAZEN & Design under Registration No. 3,864,388, registered on October 19, 2010, in International Class 5 for

“pharmaceutical preparations and substances for the treatment of rheumatoid arthritis, high blood pressure, diabetes, atopic eczema, inflammation, cancer, multiple sclerosis and premenstrual syndrome, and for maintaining healthy hair and skin, maintaining the circulatory system, maintaining the mind and nervous system including retinal and brain cell function, maintaining hormonal balance, maintaining normal gastrointestinal function, managing the musculoskeletal system and maintaining a healthy reproductive system; dietetic foods and beverages adapted for medical purposes; infants' and invalids' foods, namely, nutritional and dietary supplements in the form of drinks and chewy foods; invalids' foods for medical purposes; vitamin preparations” and in International Class 29 for “non-medicated food supplements; dietary and nutritional supplements; edible oils and fats; fish oil, evening primrose oil and thyme oil, all for use as food ingredients.”

4.

Opposer owns a U.S. trademark application Serial No. 77/784,758 to register the EQUAZEN mark, filed on July 20, 2009 in International Class 5 for “nutritional supplements; fatty acid supplement capsules; naturally-sourced nutritional supplements containing Omega-3 and Omega-6 fatty acids; Nutritional supplements containing fish oils; flavored nutritional supplements for adults and children; Nutritional supplements containing fatty acids, vitamins and minerals; nutritional supplements in the form of sweetened, flavored emulsions, drinks and chewable tablets” and in International Class 29 for “edible oils and fats; fish oils.” Opposer’s trademark application was published for opposition in the *Official Gazette* on March 9, 2010. The marks underlying Opposer’s Reg. No. 3,864,388 and Serial No. 77/784,758 are collectively referred to herein as the “EQUAZEN Mark.”

5.

On June 17, 2010, Applicant filed an application to register the mark EQUIZEN (Serial No. 85/065,236) in International Class 5 for “equine care products, namely, medicated hoof creams, muscle liniments, and insect repellents” and in International Class 44 for “providing holistic health care services for horses” (hereinafter the “EQUIZEN Mark”). Applicant’s trademark application was first published for opposition in the *Official Gazette* on November 16, 2010.

6.

Applicant’s EQUIZEN Mark is highly similar to Opposer’s EQUAZEN Marks in sound, appearance and overall commercial impression.

7.

The goods and services associated with the application to register the EQUIZEN Mark are closely related to the goods associated with Opposer and its EQUAZEN Marks.

8.

Applicant’s use of the EQUIZEN Mark is likely to create confusion, mistake and deception among the relevant consuming public, and is likely to create the erroneous impression that Applicant’s goods and services are those of Opposer or are otherwise affiliated with Opposer and its EQUAZEN Marks.

9.

Opposer will be damaged by registration of Applicant’s EQUIZEN Mark in connection with the recited goods and services because Applicant’s mark falsely suggests a connection with Opposer and is likely to cause confusion, mistake and deception, and to create the erroneous

impression that Applicant's goods and services recited herein provided under the EQUIZEN Mark are those of Opposer or otherwise affiliated with Opposer and its EQUAZEN Marks.

10.

Opposer will be damaged by registration of Applicant's EQUIZEN Mark in connection with the recited goods and services because Applicant's mark is likely to cause confusion, mistake and deception with Opposer and its EQUAZEN Marks.

A filing fee in the amount of \$600 accompanies this Notice. The Commissioner is authorized to debit Kilpatrick Townsend & Stockton LLP's Deposit Account No. 11-0860 if there is a deficiency in the filing fee.

WHEREFORE, Opposer requests that the Board refuse registration to the application of the EQUIZEN Mark (Serial No. 85/065,236) and that this Opposition be sustained in favor of Opposer.

Dated: March 16, 2011

Respectfully submitted,

/Nichole Davis Chollet/

James A. Trigg

Nichole Davis Chollet

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being filed electronically through the U.S. Patent and Trademark Office's ESTTA system on March 16, 2011.

BY: /Nichole Davis Chollet/
Nichole Davis Chollet

CERTIFICATE OF SERVICE

I hereby certify that a courtesy copy of the foregoing NOTICE OF OPPOSITION was sent via email to the Applicant on March 16, 2011 and a true and correct copy of the foregoing NOTICE OF OPPOSITION was served on the Applicant on March 16, 2011 via first class mail, postage pre-paid, addressed as follows:

Jessica Adams
219 North Keystone Street
Burbank, CA 91506

/Nichole Davis Chollet/
Nichole Davis Chollet